

## DECLARATION OF NON-ESTABLISHMENT OF INTERNATIONAL SEARCH REPORT

(PCT Article 17(2)(a), Rules 13ter.1(c) and Rule 39)

Applicant's or agent's file reference WO71555PPC	IMPORTANT DECLARATION	Date of mailing(day/month/year) 05/12/2003
International application No. PCT/ GB 03/ 03367	International filing date(day/month/year) 30/07/2003	(Earliest) Priority date(day/month/year) 30/07/2002
International Patent Classification (IPC) or both national classification and IPC A61B5/00; G06T7/00		
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This International Searching Authority hereby declares, according to Article 17(2)(a), that **no international search report will be established** on the international application for the reasons indicated below

1. ☐ The subject matter of the international application relates to:
- a. ☐ scientific theories.
  - b. ☐ mathematical theories
  - c. ☐ plant varieties.
  - d. ☐ animal varieties.
  - e. ☐ essentially biological processes for the production of plants and animals, other than microbiological processes and the products of such processes.
  - f. ☐ schemes, rules or methods of doing business.
  - g. ☐ schemes, rules or methods of performing purely mental acts.
  - h. ☐ schemes, rules or methods of playing games.
  - i. ☐ methods for treatment of the human body by surgery or therapy.
  - j. ☐ methods for treatment of the animal body by surgery or therapy.
  - k. ☐ diagnostic methods practised on the human or animal body.
  - l. ☐ mere presentations of information.
  - m. ☐ computer programs for which this International Searching Authority is not equipped to search prior art.
2. ☒ The failure of the following parts of the international application to comply with prescribed requirements prevents a meaningful search from being carried out:
- ☐ the description      ☒ the claims      ☐ the drawings
3. ☐ The failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions prevents a meaningful search from being carried out:
- ☐ the written form has not been furnished or does not comply with the standard.
- ☐ the computer readable form has not been furnished or does not comply with the standard.
4. Further comments:

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## FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 203

In accordance with the provisions of Article 17(2)(a) (i) and (ii) PCT the International Search Authority considers that no international search report can be established for the present application.

1. The claims present in file do not fulfill the requirements of Article 6 PCT.

1.1 Independent claims 1 and 4 refer to a method for analysing at least one parameter of a body component. Said claims are drafted making use of vague terms lacking a specific technical meaning in the field (component, body, parameter) which, therefore, render the scope of protection sought undefined, contrary to the provisions of Article 6 PCT. The use of said vague terms have to be considered as references to the description where not absolutely necessary, which is also contrary to the requirements of Rule 6 PCT.

1.2 Corresponding objections (including further vague terms like property or properties, potential wavebands, image value, potential filter properties, quantified output of a given filter, image value for a filter, etc.) apply to independent claim 26, relating to an apparatus for analysing at least one parameter of component; independent claim 33, relating to a method for deriving a pair of predetermined wavebands suitable for use in analysing a given parameter of a body component; independent claim 43, relating to a method of determining a property or properties of each of a set of filters; and independent claim 44, relating to an apparatus for analysing an object or material.

1.3 It even appears that the prior art cited by the applicant, document WO 98/22023 falls within the scope of protection of some of the independent claims. It is clear that the extremely broad scope of protection claimed cannot find a support in the description, which is also contrary to the provisions of Article 6 PCT.

2. From the description it can be understood that in the method proposed in the application the obtention of a function mapping points in parameter space to points in image ratio space is essential for the invention (see e.g. pages 9 to 11 of the description), however, any closer definition of said mapping function other than the partial proposals made in page 21, lines 5 to 11, for the intermediate mapping function "a"; and the equation 11, where the definition of the lambda sub-m appears to be incomplete, for the intermediate mapping function "b", is missing. It is hence considered that the description does not disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art. It is not sufficient to state that there must exist a mathematical solution for a mathematical problem, but also to disclose the specific solution for the real case. Consequently, it is considered that the application lacks disclosure, contrary to the requirements of Article 5 PCT, and that no meaningful search of the application as a whole can be carried out.

3. The description of the application shows in multiple passages that the invention is intended for the imaging and analysis of in-vivo human and animal tissues (cf. e.g. page 1, lines 18 to 20 and 27 to 32; page 5, lines 1 to 4; page 16, lines 11 to 13, among other). It has to be pointed out that even if in the description possible non-diagnostic applications

## FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 203

formally appear to be comprised, the lack of any specific example and the identification of the cited prior art as a diagnostic method clearly indicates that a diagnostic use is intended. Consequently, in accordance with Article 17(2)(b) and Rule 39.1(iv) PCT claims 1 to 25 need not to be the subject of the international search report.

The applicant's attention is drawn to the fact that claims relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure. If the application proceeds into the regional phase before the EPO, the applicant is reminded that a search may be carried out during examination before the EPO (see EPO Guideline C-VI, 8.5), should the problems which led to the Article 17(2) declaration be overcome.